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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/798,984	03/11/2004	Rex W. Riley	2876-PAT	6848

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DONN K. HARMS
PATENT & TRADEMARK LAW CENTER
SUITE 100
12702 VIA CORTINA
DEL MAR, CA 92014

EXAMINER

OLSON, MARGARET LINNEA

ART UNIT	PAPER NUMBER
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3782

DATE MAILED: 11/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/798,984	RILEY, REX W.	
	Examiner	Art Unit	
	Margaret L. Olson	3782	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 9, 10 and 15-22 is/are rejected.
- 7) ☐ Claim(s) 5-8 is/are objected to.
- 8) ☐ Claim(s) 11-14 are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>3/11/2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. This application contains claims directed to the following patentably distinct species: I) a vehicle load support mounted to the rear of a vehicle, as shown in figures 1-6, and II) a vehicle load support mounted to a trailer hitch, as shown in figure 7. The species are independent or distinct because the claims recite mutually exclusive features. The fields of search for these two species are divergent, since species I is listed in class 224, subclass 488, and species II is listed in class 224, subclass 519. Because these inventions are independent or distinct for the reasons given above and there would be a serious burden on the examiner if restriction is not required because the inventions require a different field of search (see MPEP § 808.02), restriction for examination purposes as indicated is proper.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a). Currently, no claims are considered generic.

2. During a telephone conversation with Donn Harms on November 20, 2006, a provisional election was made without traverse to prosecute the invention of species I, claims 1-10 and 15-22. Affirmation of this election must be made by applicant in

replying to this Office action. Claims 11-14 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Drawings

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: grommet or aperture 51, T-section 114, and orifice 120. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

4. The abstract of the disclosure is objected to because in line three of page 37, the phrase "polarity of orifices" should read "plurality of orifices". Correction is required. See MPEP § 608.01(b).

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5. The abstract of the disclosure is objected to because in lines 4 and 5 of page 37, the location and presence of "the tubular members" are not adequately described.

Correction is required. See MPEP § 608.01(b).

6. The abstract of the disclosure is objected to because the sentence in lines 7 and 8 on page 37 does not specify what is designed to be self centering: the yoke style strap, the tubular members, or both. Correction is required. See MPEP § 608.01(b).

7. The use of the trademarks "Jeep" and "Jeep Wrangler" for all-purpose utility vehicles, "Nylon" and "Spectra" for plastic fiber, has been noted in this application on page 2. It should be capitalized wherever it appears and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

8. The disclosure is objected to because of the following informalities: on page 2 in line 8, the phrase "total lack of trunk within" is missing a word.

Appropriate correction is required.

9. The disclosure is objected to because of the following informalities: on page 28, line 15, the phrase "What is claimed is:" belongs on the page of claims.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. Claims 1, 2, 3, 4, 9, 10, 15, 16, 17, 18, 19, and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Wyers (US 5,377,885). Wyers discloses a vehicle load support for engagement to a vehicle with an elongated frame member 12 with first side member 13 and second side member 13 (column 2, lines 25-29), and upper section with an engagement end shown near 42 (figure 1) and a lower section with an attachment end shown at 17. The attachment end 17 is adapted for rotational engagement with the rear of a vehicle in a mounted position (see figure 1, phantom lines) where the frame member may move from an elevated position shown in figure 1 to a lowered position where the upper section may contact the ground or cargo sitting on the ground (phantom lines, figure 1). Attachment 31 maintains frame member 12 in an elevated position, and mounts 44 and line 45 suspend cargo from the upper section of the frame member at bar 42. The upper section of the frame is rotationally engaged with the vehicle so that it may be moved adjacent to cargo on the ground adjacent to the vehicle, then rotated back to and removably maintained in an elevated position with cargo suspended above ground engaged with the upper section (column 1, lines 33-52).

With respect to claim 2, the lower section of the frame member is in angled engagement with the upper section at a determined angle, as shown near 15 and 22 in

figure 1 (column 2, lines 41-47). This angle imparts a vectored force comprising the weight of the frame member and cargo when the frame member is elevated and communicates it substantially toward the rear of the vehicle.

With respect to claim 3, the engagement end of the frame member as shown in figure 3 is substantially equidistant between two distal ends of the frame member at 15a in figure 1. The first and second side members 13 extend between the engagement end and the distal ends on their respective sides (column 2 lines 25-29). Each distal end is connected to bar 15 mounted for rotational engagement with the rear of the vehicle (figure 1).

With respect to claim 4, the engagement end of the frame member as shown in figure 3 is substantially equidistant between two distal ends of the frame member at 15a in figure 1. The first and second side members 13 extend between the engagement end and the distal ends on their respective sides (column 2 lines 25-29). Each distal end is connected to bar 15 mounted for rotational engagement with the rear of the vehicle (figure 1).

With respect to claim 9, support rod 31 maintains the frame in an elevated position and is mounted in communication with the vehicle at mount 33, and is removably engageable with the frame member 12 at the second end by means of a bolt and nut assembly 34. (column 3, lines 36-50).

With respect to claim 10, support rod 31 maintains the frame in an elevated position and is mounted in communication with the vehicle at mount 33, and is

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removably engageable with the frame member 12 at the second end by means of a bolt and nut assembly 34. (column 3, lines 36-50).

With respect to claim 15, the upper section is separable from the lower section (column 3, lines 1-13).

With respect to claim 16, the upper section is separable from the lower section (column 3, lines 1-13).

With respect to claim 17, the upper section is separable from the lower section (column 3, lines 1-13).

With respect to claim 18, support brace 43 extends between the first and second side members 13 (figure 3; column 3, lines 56-58).

With respect to claim 19, support brace 43 extends between the first and second side members 13 (figure 3; column 3, lines 56-58).

With respect to claim 20, support brace 43 extends between the first and second side members 13 (figure 3; column 3, lines 56-58).

Claim Rejections - 35 USC § 103

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wyers (US 5,377,885) in view of Poindexter (US 5,618,150). Wyers discloses the

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structure of claim 1, including a support 31 engaged at the first end to a mount in communication with the vehicle 33, and removably engageable at the second end 34 with the frame member. Wyers does not disclose a rigid support rod. Poindexter teaches a support rod 191 engaged at the first end to a mount 201 in communication with the vehicle (column 7, lines 12-19). The second end is engaged to the frame of the cargo support 170 by pin 195, which may be removed. It would have been obvious to one of ordinary skill in the art at the time of invention to include a support rod removably engaged to the frame of Wyers in order to firmly secure the cargo carrying frame member to the vehicle.

With respect to claim 10, Wyers discloses the structure of claim 2, including a support 31 engaged at the first end to a mount in communication with the vehicle 33, and removably engageable at the second end 34 with the frame member. Wyers does not disclose a rigid support rod. Poindexter teaches a support rod 191 engaged at the first end to a mount 201 in communication with the vehicle (column 7, lines 12-19). The second end is engaged to the frame of the cargo support 170 by pin 195, which may be removed. It would have been obvious to one of ordinary skill in the art at the time of invention to include a support rod removably engaged to the frame of Wyers in order to firmly secure the cargo carrying frame member to the vehicle.

14. Claims 21 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wyers (US 5,377,885) in view of Jordening (US 4,437,599). Wyers discloses the structure of claim 1, but does not disclose an elongated flexible support strap with loops for suspending cargo. Jordening teaches a cargo carrier to be attached to a vehicle

with an elongated flexible support strap 7 with a plurality of support loops formed in it for suspending cargo from the upper section of the frame of the carrier (figure 1; column 2, lines 22-29). It would have been obvious to one of ordinary skill in the art at the time of invention to include a flexible support strap with a plurality of support loops in it in order to secure items of different shapes and sizes to the carrier.

With respect to claim 22, Wyers discloses the structure of claim 2, but does not disclose an elongated flexible support strap with loops for suspending cargo. Jordening teaches a cargo carrier to be attached to a vehicle with an elongated flexible support strap 7 with a plurality of support loops formed in it for suspending cargo from the upper section of the frame of the carrier (figure 1; column 2, lines 22-29). It would have been obvious to one of ordinary skill in the art at the time of invention to include a flexible support strap with a plurality of support loops in it in order to secure items of different shapes and sizes to the carrier.

Allowable Subject Matter

15. Claims 5-8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Butler et al (US 6,769,858), Oliver (US 6,641,353), McKinley (US 6,638,001), Davis (US 4,971,237), Schambre et al (US 5,957,346), and York (US 4,806,063) all disclose similar inventions.

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Margaret L. Olson whose telephone number is (571) 272-9002. The examiner can normally be reached on MTWR, 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on (571) 272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


NATHAN J. NEWHOUSE
SUPERVISORY PATENT EXAMINER